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O I P E

MAY 19 2004

U.S. PATENT & TRADEMARK OFFICE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

2470-PAT

First Named Inventor: CHEN WEI

Art Unit: 3723

Application Number: 10/033,019

Examiner: HADI SHAKERI

Filed: 12/27/2001

Title: Automatically Adjusting Self-Tightening Wrench

RECEIVED

MAY 21 2004

OFFICE OF PETITIONS

Attention: Office of Petitions
Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
 Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

Small entity – fee \$ 55.00 (37 CFR 1.17(l)). Applicant claims small entity status.
 See 37 CFR 1.27.

Other than small entity – fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
Response and request for continued app. (identify the type of reply):

has been filed previously on 11/25/2003

is enclosed herewith.

B. The issue fee of \$ _____

has been filed previously on _____

is enclosed herewith.

05/20/2004 AWONDAF1 00000031 071338 10033019

03 FC:2452 55.00 DA

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND COMMENTS OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

05/20/2004 AWONDAF1 00000031 071338 10033019
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3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

5/17/04

Date



Signature

(858) 509-1400

Telephone Number

DONN K. HARMS

Typed or printed name

38,911

Registration Number, if applicable

12702 Via Cortina, Ste. 100

Address

Del Mar, CA 92014

Address

Enclosure Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unavoidable delay

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

5/17/04

Date

Signature

DONN K. HARMS

Typed or printed name of person signing certificate

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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

5/17/04

Date



Signature

38,911

Registration Number, if applicable

DONN K. HARMS

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

A response to the examiner's office action of 7/29/2003 was submitted by facsimile on November 25, 2003, in which applicant, per Examiner Shakeri's recommendation, requested a continued examination. A request for an extension of one month in which to submit the response was also requested at that time. Attached is a copy of said response and a copy of the fax machine's "Send Confirmation Report" which confirms that the facsimile was completed to the USPTO on November 25, 2003.

On March 19, 2004, a Notice of Abandonment was mailed from the Examiner. Upon its receipt applicant telephoned Examiner Shakeri who stated that he had never received the November 25, 2003, fax. On March 22, 2004, applicant then sent another copy by facsimile of the response to the examiner. A follow-up telephone on April 1, 2004, revealed that Examiner Shakeri had not received that fax so another copy was sent again by fax.

On May 17, 2004, Examiner Shakeri confirmed by telephone that he has never received any of the facsimiles that were sent for this application. He stated that the USPTO has a new fax system that has been causing input problems and that many other applicants have experienced similar problems.

Applicant therefore submits that through no fault of applicant, this application was abandoned and requests that it be reinstated.

Applicant requests that the Petition fee herein be waived because applicant should not be charged for technological upgrades at the USPTO causing the loss of communications.

(Please attach additional sheets if additional space is needed.)